REMARKS/ARGUMENTS

The Examiner has required restriction of the above-identified application as follows:

Group I Claims 1-25;

Group II Claims 26, 28, 29, 32, 34, and 36; and

Group III Claims 27, 30, 31, 33, 35, and 37.

The Examiner has also required election of a single disclosed species for examination purposes. Applicants have elected, with traverse, Group I, Claims 1-25, for prosecution. Applicants have further elected, with traverse, the compound of Example 8, given on pages 54-55, and depicted on page 105, of the specification, as the single disclosed species for examination purposes only.

Restriction is only proper if the restricted inventions are independent or patentably distinct. (MPEP § 803) The burden is on the Examiner to provide adequate reasons and/or examples to support any conclusion of patentable distinctness. (MPEP § 803) Applicants respectfully traverse the restriction and election requirements on the ground that no adequate reasons and/or examples have been provided to support either the restriction or election requirements.

On page 2 of the restriction requirement it is asserted that the compounds of formulae I, XV, and XVI are distinct because they are "structurally dissimilar" and "do not belong to a recognized class of compounds." However, this conclusion ignores the fact that the compounds of formulae XV and XVI are "important intermediates" for the production of the compounds of formula XXVI, which fall within the definition of formula I (*see*, page 8, lines 1-5, of the present specification). Accordingly, the compounds of formulae I, XV, and XVI are related as final product (formula I) and intermediate (formulae XV and XVI).

The test for distinctness for inventions so related is set out in MPEP § 806.05(j), which requires two-way distinctness. Since the proper test for assessing patentable

distinctness has not been applied, no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness.

For this reason, the restriction requirement is improper and should be withdrawn.

Similarly, no adequate reasons have been provided to support the requirement for election of species. In fact, no reasons have been provided at all. Accordingly, the requirement for election of species should also be withdrawn.

Applicants submit that the present application is now ready for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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